

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 92-028-C - ORDER NO. 92-668 ✓
AUGUST 17, 1992

IN RE:	Application of Robert Cefail & Associates)	ORDER GRANTING
	American Inmate Communications, Inc. for)	PETITION FOR
	a Certificate of Public Convenience and)	REHEARING AND/OR
	Necessity to Operate as a Reseller of)	RECONSIDERATION
	Telecommunications Services, including)	AND REINSTATING
	Operator Services, within the State of)	ORDER NO. 92-431
	South Carolina.)	GRANTING
)	CERTIFICATE

This matter is before the Public Service Commission of South Carolina (the Commission) on the Petition for Rehearing and/or Reconsideration of Order No. 92-554 (July 17, 1992) filed by Robert Cefail & Associates American Inmate Communications, Inc. (Cefail or the Company). In Order No. 92-554 the Commission granted Pay-Tel Communications, Inc.'s (Pay-Tel's) Petition for Rehearing and/or Reconsideration and denied Cefail's Application for a Certificate of Public Convenience and Necessity which it had previously granted in Order No. 92-431 (June 17, 1992).

Cefail asserts the Commission should not have granted Pay-Tel's Petition for Rehearing and/or Reconsideration because Pay-Tel did not present any new evidence which established that the Commission's original order was unlawful or unreasonable. The Commission agrees.

In Order No. 92-431, the Commission recounted the evidence offered at the hearing in support of Cefail's Application for a Certificate of Public Convenience and Necessity. The Commission also recited evidence which indicated that, at times, Cefail had violated certain rules and regulations of the North Carolina Public Utilities Commission and of this Commission. The Commission stated it was concerned about these violations and, consequently, Cefail's fitness to provide COCOT services to confinement facilities in South Carolina. Nonetheless, the Commission determined that, "based upon its [Cefail's] experience, financial resources, capability, and assertion that it will comply with all applicable rules and regulations of this Commission," Cefail's Application for a Certificate of Public Convenience and Necessity should be granted. Order No. 92-431, page 5.¹ In Order No. 92-554, issued in response to Pay-Tel's Petition for Rehearing and/or Reconsideration, the Commission concluded "that Cefail's history of violations demonstrates that it is not fit to provide telecommunications services within the State of South Carolina." Order No. 92-554, page 4.

1. The Commission specifically noted that it would "carefully scrutinize Cefail's activities to ensure that it is complying with all of the Commission's Rules and Regulations and with its tariff," that "Cefail shall comply with all Commission guidelines pertaining to the provision of COCOT services," and that "[a]ny departure from those guidelines will not be allowed without a specific request and Commission approval of the requested waiver." Order No. 92-431, page 8.

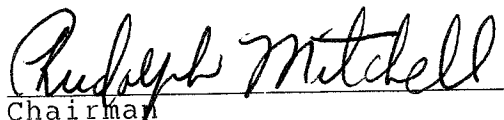
South Carolina Code Ann. §58-9-1450 (1976) provides, in relevant part, as follows:

All orders of the Commission shall be deemed prima facie just and reasonable and in all actions and proceedings arising under Articles 1 through 13 of this chapter... the burden of proof shall be on the party attacking any order of the Commission to show that the order is unlawful or unreasonable.

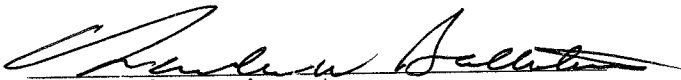
The Commission concludes that its decision in Order No. 92-431 granting Cefail's Application for a Certificate of Public Convenience and Necessity was just and reasonable and fully supported by the record in the proceeding. Although it recognized that Cefail may have, at times, violated certain rules of this and other commissions, the Commission determined Cefail's pledge to adhere to all rules and regulations of the Commission constituted sufficient evidence of its fitness. Pay-Tel's Petition for Rehearing and/or Reconsideration did not reveal any evidence which the Commission had not previously considered in issuing Order No. 92-431 but merely argued that the Commission should have determined that Cefail was unfit. The Commission concludes that Pay-Tel's Petition for Rehearing and Reconsideration did not demonstrate that the Commission's original order was either unreasonable or unlawful, as required by Section 58-9-1450. Therefore, the Commission determines that its reversal of its original decision based solely on the same evidence of which it was previously aware

was unwarranted. For this reason, the Commission hereby grants Cefail's Petition for Rehearing and/or Reconsideration and reinstates Order No. 92-431 granting Cefail a Certificate of Public Convenience and Necessity to operate as a reseller of certain telecommunications services within the State of South Carolina.

IT IS SO ORDERED.


VICE Chairman

ATTEST:


Executive Director

(SEAL)